



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
09.06.2022	15.06.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.29419 OF 2013

AND

M.P. NO. 1 OF 2013

Arukkani

.. Petitioner

- Vs -

1. The Inspector General of Registration
Santhome High Road, Chennai 600 004.
2. The District Registrar
Registration Department
Namakkal, Namakkal District.
3. The Sub Registrar
Registration Department
Pallipalayam Agraharam Village
Tiruchengode Taluk, Namakkal District.

4.M.Palaniammal

5.K.K.Rajendran (Decd.)

6.Tamilselvi

7.Sasikumar

8.Subha

.. Respondents

(RR-6 to 8 substituted as LRs
of deceased R-5, vide order
dated 29.3.22 in WMP No.7061/22)

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records relating to the entries and corrections dated 10.04.2013 made by the 3rd respondent in the petitioner's original sale deed dated 23.12.2005 registered as Doc. No.2293 of 2005 on his file made in pursuance of Letter No.757/A1/2008 dated 08.04.2013 issued by the 2nd respondent and quash the same and consequently direct the respondents 1 to 3 to restore the boundaries as it stood prior to 10.04.2013 in the original document No.2293 of 2005 dated 23.12.2005 till the disposal of the lis between the parties and by considering the representation dated 16.09.2013.



For Petitioner : Mr. N.Manokaran

For Respondents: Mr. Yogesh Kannadasan, Spl. GP for RR-1 to 3
Mr. C.Mohan, SC, for
M/s. M.Guruprasad for RR-4 to 8

WEB COPY

ORDER

The present case has been filed to restore the registered document back to its original form as it stood on the date of registration, i.e., on 23.12.2005, by quashing the impugned order passed by the 2nd respondent directing corrections relating to certain alleged interpolations in the document.

2. It is the case of the petitioner that the properties, comprised in S. No.197/1 was allotted to the share of her brother, Late Muniyappan and her mother Ponjayeemmal vide registered partition deed dated 9.8.1988. It is the further averment of the petitioner that the 4th respondent was the wife of her brother and since they were not in good terms, her brother Muniyappan had appointed one Palanisamy as this power agent under a Deed of Power of Attorney dated 20.12.2005 and the power agent had sold an extent of 25 cents in C. No.197/1 to the petitioner under a registered sale deed dated 23.12.2005 and since then the petitioner is in possession and enjoyment of the said property.

3. It is the further case of the petitioner that after the death of her brother Muniyappan, the 4th respondent gave a false complaint against the petitioner and her husband, which was registered in Crime No.655 of 2007 and after investigation, final report was filed u/s 120-B, 467 and 471 IPC and the matter is posted for trial.

4. It is the further case of the petitioner that the 4th respondent had sold an extent of 53 cents to the 5th respondent vide sale deed dated 26.9.2007, whereinafter, respondents 4 and 5 had filed a writ petition in W.P. No.11436/08 praying for a direction to respondents 1 and 2 therein to take action against the officials of the 3rd respondent for making certain corrections to the sale deed dated 23.12.2005 and further directing respondents 1 to 3 to remove the addition as shown in the certified copy of the sale deed dated 7.12.2007 and to issue a fresh certified copy in accordance with the certified copy dated 13.12.2006.

5. It is the further averment of the petitioner that the allegation of the 4th respondent is that in the certified copy of the sale deed dated 23.12.05, which she had applied on 17.12.07,



there is insertion of the word "Velappan Land", but such boundary was not there in the certified copy, which she had obtained on 13.2.06 and, therefore, according to the 4th respondent, between 13.2.2006 and 17.2.2017, the said interpolation had taken place at the behest of the petitioner with the connivance of the officials of the 3rd respondent. It is further averred that the petitioner had denied all the allegations in the counter affidavit filed in W.P. No.11436 of 2008.

6. It is the further case of the petitioner that the document presented by her for registration on 23.12.2005, which was registered as Document No.2293/2005 was scrutinized and verified by the 3rd respondent in accordance with the provisions of the Registration Act and, therefore, any interpolations of mistakes that had crept in the certified copy of the sale deed dated 23.12.2005 issued on 13.02.2006 is without the knowledge of the petitioner and may have been an error that had occurred while the certified copy was issued on 13.2.06, as it was a manuscript prepared by the copyist and, therefore, the petitioner cannot be fastened with any culpability and it is not fair and proper on respondents 4 and 5 to accuse the petitioner.

7. It is the further averment of the petitioner that in compliance of the procedural formalities, respondents 1 to 3, who are discharging administrative and quasi judicial functions, are bound to register the document on the person being identified and upon payment of necessary stamp duty and other attendant procedural formality. The imputations made against the petitioner are false and made with a mala fide intent, which has led to the registration of Crime No.655 of 2007. It is the further submission of the petitioner the 4th respondent had filed a suit in O.S. No.109 of 2006, which was allowed to be dismissed for default.

8. It is the further case of the petitioner that final order was passed in W.P. No.11436/08 on 7.3.2013 in and by which this Court had directed the respondent to issue a certified copy of the sale deed dated 23.12.2005 to the petitioner therein within a stipulated time, but no order has been passed by this Court with regard to deletion of corrections to be made in the said order with regard to interpolations. However, the 2nd respondent, without understanding the scope and purport of the order, have erroneously and upon misconstructions, altered the boundaries in the sale deed dated 23.12.2005. It is the further case of the petitioner that on coming to know of the alterations and interpolations made by respondents 2 and 3 in the original sale deed dated 23.12.05, the petitioner filed representation dated 16.9.13 pointing out the error committed by respondents 2 and 3 in appreciating and understanding the order passed in W.P.



No.11436/08. In spite of the same, the respondents 2 and 3, having not taken any action to rectify the said error, left with no other option, the present petition has been filed invoking the extraordinary jurisdiction of this Court.

WEB COPY

9. Learned counsel appearing for the petitioner submitted that the corrections and interpolations carried out in the sale deed dated 23.12.05 without granting an opportunity of hearing to the petitioner is grossly unsustainable. It is the further submission of the learned counsel that when this Court had ordered issuance of a certified copy of the sale deed dated 23.12.05, respondents 2 and 3 cannot add something to the said order by making the corrections and interpolations, which is a contemptuous act and against the orders passed by this Court.

10. It is the further submission of the learned counsel that the only crime pending against the petitioner is Crime No.655/07 and unless the act alleged in the crime is proved before the criminal court, it is impermissible on the part of respondents 2 and 3 to make any corrections to the sale deed dated 23.12.05, as they do not have the authority of law to carry out the said corrections. It is the further submission of the learned counsel that the act of the respondents 2 and 3 in making the aforesaid corrections would be very much detrimental to the case of the petitioner in Crime No.655/07 and would cause serious prejudice to the petitioner in the pending criminal trial.

11. It is the further submission of the learned counsel that respondents 2 and 3 not being parties to the document nor vested with any power to make corrections in the said sale deed at the instance of the representation of respondents 4 and 5, the act of respondents 2 and 3 is wholly perverse and unsustainable.

12. It is therefore the submission of the learned counsel that the act of the respondents 2 and 3, being not in accordance with law and contra to the order passed by this Court in W.P. No.11436/07 and beyond the said order, the said impugned act of respondents 2 and 3 deserves to be interfered with and the sale deed as it stood prior to the impugned correction should stand restored.

13. Per contra, learned Special Government Pleader appearing for respondents 1 to 3 submitted that only based on the directions issued by this Court in W.P. No.11436/08, the corrections have been carried out in the sale deed dated 23.12.05. It is the further submission of the learned Special Government Pleader that subject to the outcome of the criminal case pending against the petitioner, the petitioner can proceed



in accordance with law and seeking a prayer to set aside the impugned order, when a criminal case for the very same allegation is pending against the petitioner is per se unsustainable.

WEB COPY

14. Learned counsel appearing for respondents 4 to 8 submitted that the criminal case has been filed against the petitioner and her husband as early in the year 2007 relating to offences u/s 467 and 471 IPC and is pending trial. The subject matter sale deed is the issue on which the case has been registered and that the corrections and interpolations only further the case of the respondents about the manner in which the petitioner has come in possession of the property. It is the further submission of the learned senior counsel that only after appreciating all the materials in proper perspective, this Court, in W.P. No.11436/08 has directed the issuance of a certified copy of the sale deed dated 23.12.2005, which document is without any addition/interpolation and, which order has been rightly construed while passing the impugned order directing deletion of the interpolations. Unless the veracity of the two certified copies of the sale deeds, viz., dated 13.2.2006 and 7.12.2007 is found out to come to the real conclusion as to which document is true and genuine, the petitioner cannot be absolved of the charges and in that backdrop, the act of the respondents 1 to 3 in interpreting the order of this Court in the proper manner and deleting the interpolations does not call for any interference.

15. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

16. Though the factum of the sale as alleged by the 4th respondent is through connivance, which is evident from the complaint filed, which has been taken cognizance of resulting in filing of charge sheet and pending trial, however, the factum of the execution of the sale deed dated 23.12.2005 is not disputed. The whole genesis of the issue revolves around certain corrections/interpolations, which are alleged to have been incorporated in the sale deed dated 23.12.2005, after registration, more especially after 13.2.06, which, according to respondents 4 to 8, are at the behest of the petitioner and which stand reflected in the two certified copies obtained by them at two different points of time, viz., 13.2.06 and 7.12.2007. In regard to the said corrections, W.P. No.11436/08 has been filed by respondents 4 and 5 praying for a direction to respondents 1 and 2 therein to take action against the officials of the 3rd respondent for making certain corrections to the sale deed dated 23.12.2005 and further directing respondents 1 to 3 to remove the addition as shown in the certified copy of the



20. However, respondents 2 and 3, taking umbrage under the fact that the writ petition has been allowed, as is reflected in para-6 of the order passed in W.P. No.11436/08, have resorted to making the corrections/interpolations in the sale deed dated 23.12.2005. However, the fact remains that para-5 of the order in W.P. No.11436/08 reveals that act to be performed by respondents 2 and 3, wherein the Court has directed the 3rd respondent therein to issue certified copy of the sale deed dated 23.12.2005, as the original sale deed is lying in the office of the 3rd respondent.

21. From the above observation passed in para-5 of the said order, it is evident that this Court had merely directed the 3rd respondent therein to issue certified copy of the sale deed dated 23.12.2005, as the original sale deed is lying in the office of the 3rd respondent, while observing in para-4 of the order with regard to registration of criminal case against certain accused. There is no explicit direction from the Court to the 3rd respondent therein to make any corrections to the sale deed dated 23.12.2005 registered by the petitioner herein. Though the respondents 4 and 5 herein had claimed for a larger relief, however, the Court had granted only the necessary and justiciable relief, mindful of the fact that criminal case is pending and the allegations made against the petitioner herein are to be proved in the manner known to law before the criminal court and any other order, as sought for by respondents 4 and 5 would have a cascading effect in the criminal case.

22. It is to be pointed out that any order passed by this Court has to be read in its entirety and not to the whims and fancies of the respondents. However, in the present case, interpreting the order to their liking, respondents 2 and 3 have done certain acts, which is not covered by the order. This Court is at a loss to understand as to what portion of the order prompted respondents 2 and 3 to make the corrections. There is no affirmative direction, let alone even a passing reference to any corrections to be made in the sale deed dated 23.12.2005 in the whole order. That being the uncontroverted position, the act of respondents 2 and 3 in making corrections to the sale deed dated 23.12.2005, is not only stepping over the order passed by this Court in W.P. No.11436/2008, but it is also per se contemptuous. If really respondents 2 and 3 had any doubts as to the actual relief granted or was of the opinion that the order is ambiguous, necessarily respondents 2 and 3 ought to have sought clarification from the Government Pleader about the order before proceeding further or should have come before this Court seeking clarification as to the compliance of the order passed by this Court. However, without resorting to either of the option, respondents 2 and 3 have given a wider interpretation to an order passed by this Court, unmindful of



WEB COPY

its consequences. Though much can be said, however, this Court, to maintain judicial decorum, refrains itself from dissecting the matter any further. Needless to state that the action of respondents 2 and 3 in passing the impugned order and making corrections in the sale deed dated 23.12.2005 is perverse, arbitrary and unsustainable.

23. In view of the discussion made above, this Court is of the considered view that the act of respondents 2 and 3 in making corrections/interpolations in the sale deed dated 23.12.2005 is uncalled for and not in consonance with the directions issued by this Court in W.P. No.11436/08 and, therefore, the said act of respondents 2 and 3 definitely requires interference at the hands of this Court and the said act deserves to be set aside.

24. Accordingly, respondents 1 to 3 are directed to restore the sale deed dated 23.12.2005 back to its original position as was existing prior to 10.4.2013 and issue certified copy of the said sale deed dated 23.12.2005 to the petitioner as also respondents 4 to 8 within a period of four weeks from the date of receipt of a copy of this order. Subject to the result of the criminal proceeding, correction, if any, could be made to the said sale deed dated 23.12.2005.

25. This writ petition is allowed with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS-CCC)

//True copy//

Sub Assistant Registrar

GLN

To

1. The Inspector General of Registration
Santhome High Road
Chennai 600 004.

2. The District Registrar
Registration Department
Namakkal
Namakkal District.



3. The Sub Registrar
Registration Department
Pallipalayam Agraharam Village
Tiruchengode Taluk
Namakkal District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.36226

+1cc to Mr.N.Manokaran, Advocate SR.No.35733

W.P. NO.29419 OF 2013

SKM(CO)
GMY (27/06/2022)